

REMARKS

This Response is made to the Office Action dated February 25, 2003. Claims 1, 3, 4, 6-11, and 13-31 are pending in this application. Reconsideration of the rejected claims is respectfully requested in view of the following discussion concerning the cited prior art.

The Examiner has rejected claims 1, 3, 4, 6-11, 13-19 and 21-23 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application No. US 2001/0016770A1 to Allen et al (the "Allen application"). In the Office Action, the Examiner has reproduced FIG. 8 from the Allen application and has selectively colored various shapes of the stent pattern in an attempt to reconstruct Applicant's invention. With regard to claims 1, 3-4, 6-7, 8-10, 17-19 and 21-22, the Examiner has colored in red V-shaped portions and portions of the stent pattern that the Examiner considers to be W-shaped peak portions. The Examiner has likewise colored in green V-shaped portions and portions of the stent pattern that the Examiner considers to be W-shaped valley portions. However, in selectively coloring the stent pattern, the Examiner has disregarded the disclosure of the Allen application that specifically identifies which part of the stent pattern constitutes a peak and valley portion.

Referring specifically to the disclosure relating to the embodiment shown in reproduced FIG. 8, the Allen application clearly defines alternating peak portions with the numeral 52 and valley portions with the numeral 54. The Allen application, at column 3 [0040] states as follows:

"In this embodiment, each peak portion 52 or valley portion 54 is reinforced by reinforcing member 44 extending across bend 56 to interconnect struts 58."

Each reinforcing member 44 extends across connecting struts 58 which form each peak portion 52 or valley portion 54 of the embodiment of FIG. 8. The Examiner, in an attempt to duplicate Applicant's claimed invention, has merely traced portions of the cylindrical element 12 and portions of the reinforcing member 44 to create what appears to be a W-shape portion, claiming that it constitutes either a peak portion or valley portion. However, the reinforcing member 44 used in the Allen application clearly is shown and described as a connecting link which connects the struts that form either the peak portion or valley portion of the cylindrical element 12. Accordingly, the W-shape highlighted in red or green by the Examiner does not constitute a peak or valley portion of the cylindrical element when read in context with disclosure of the Allen application. Moreover, the claims at issue recite that adjacent valley portions and adjacent peak portions nest when the stent is crimped or collapsed. The presence of additional reinforcing members 44 between alternating valley and peak portions may prevent the nesting of the adjacent valley and peak portions. Accordingly, Applicant believes that the Examiner has simply ignored the disclosure of the Allen application in rejecting the claims at issue. Applicant respectfully requests the Examiner to withdraw the §102(e) rejection based on the Allen application.

With specific regard to claims 8-10 and 13-16, the Examiner again selectively colors the strut pattern appearing in the Allen application as needed to attempt to support

his rejection in order to suit his purpose. For example, the Examiner has identified the connecting member by coloring it yellow. However, the Examiner disregards the specification of the Allen application which identifies portions of the stent pattern colored yellow as constituting either a valley portion 54 and a reinforcing member 44. The interconnecting member in the Allen application is clearly identified by the numeral 50. The Examiner's attempt to characterize a portion of a valley portion and a reinforcing member 44 as part of an interconnecting member simply ignores the disclosure of the Allen application.

The Examiner has rejected claims 24-31 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,935,162 to Dang, et al. (the "Dang patent"). The Examiner has reproduced FIG. 6 from the Dang patent and again has selectively colored portions of the strut pattern in order to recreate Applicant's claimed invention. In doing so, the Examiner has completely disregarded the disclosure of the Dang patent. While the Dang patent shows a plurality of W-shaped members appearing in the stent pattern of FIG. 6, the Dang patent does not show V-shaped peaks and valleys as suggested by the Examiner. The various components disclosed in FIG. 6 of the Dang patent are clearly identified in the following passage from the Dang patent:

"The cylindrical sections 222 are preferably arranged such that the W-shaped elements 230 in adjacent cylindrical sections 220 alternate between pairs of W-shaped elements 230 that open towards each other and pairs of W-shaped elements 230 that open away from each other when moving around the perimeter or circumference of the stent 210 (i.e., transverse to the axis 214 or in the hoop direction). The pairs

of W-shaped elements 230 that open towards each other from adjacent cylindrical sections 220 are connected by tie members 250 to form cells 240 in a manner similar to that described above with respect to stents 10 and 110.
(Column 7, lines 55-65.)

Therefore, the portion of the strut pattern which has been colored red by the Examiner is not a V-shaped peak portion or a V-shaped valley portion, but rather, as is clearly identified in the above passage, a W-shaped portion. Applicant thus believes that the Examiner's selective coloring of portions of the stent pattern of FIG. 6 is an attempt to impermissibly reconstruct Applicant's claimed invention without giving any due consideration of the disclosure of the Dang patent. Applicant respectfully requests the Examiner to withdraw the §102(b) rejection based on the Dang patent as applied to the claims at issue.

In view of the foregoing, it is respectfully urged that all of the present claims of the application are patentable and in a condition for allowance. The undersigned attorney can be reached at 310-824-5555 to facilitate prosecution of this application, if necessary.

In light of the above amendments and remarks, applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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